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18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**

20  
21 IN RE: FACEBOOK, INC., CONSUMER PRIVACY  
22 USER PROFILE LITIGATION

MDL No. 2843

Case No. 3:18-md-02843-VC

**CO-LEAD COUNSEL'S  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED PURSUANT TO  
LOCAL RULE 3-12**

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THIS DOCUMENT RELATES TO:  
ALL ACTIONS

Judge: Hon. Vince Chhabria

Pursuant to Civil Local Rules 3-12 and 7-11, Co-Lead Counsel move the Court to relate *McDonnell, et al. v. Facebook, Inc.*, No. 3:18-cv-05811 (N.D. Cal. Sept. 21, 2018) to *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, No. 3:18-cv-02843-VC. The *McDonnell* complaint is attached as Exhibit 1 to the Declaration of Lesley E. Weaver (“Weaver Decl.”).

### STATEMENT OF FACTS

On July 27, 2018, this Court ordered that Plaintiffs’ Consolidated Complaint In this multi-district litigation (“MDL”), *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, should be filed by September 21, 2018. ECF No. 103. On September 21, 2018 Plaintiffs Scott McDonnell, Tabell Holsinger, and James Tronka (the “*McDonnell* Plaintiffs”) filed their initiating complaint their initiating complaint. It was necessary for the *McDonnell* Plaintiffs to file their complaint in order to participate in the MDL. *See* 28 U.S.C. § 1407(a) (MDL proceedings concern the consolidation of pre-existing “civil actions involving one or more common questions of fact”). *In re Mortg. Elec. Registration Sys. Litig.*, MD-09-02119-PHX-JAT, 2016 WL 3931820, at \*5 (D. Ariz. July 21, 2016) (“A plaintiff may not unilaterally add actions in the MDL that have not been pending in federal court elsewhere or which were not transferred to the transferee court through the MDL process”).

### ARGUMENT

Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Civil L.R. 3-12(a).

The *McDonnell* Plaintiffs’ complaint should be deemed related because they concern the same Defendants, transactions, and events. The *McDonnell* Plaintiffs raise claims relating to Facebook’s misuse of personal information that are substantially identical to the other claims that have been transferred to this Court and have been consolidated into this MDL. *Compare* Weaver Decl. Ex. 1 at ¶¶ 85–142 (alleging violations of the Stored Communications Act, California’s Unfair Competition Law, and unjust enrichment), with *Schinder v. Facebook, Inc. et al.*, Case No. 5:18-cv-02571-VC

(N.D. Cal. May 1, 2018), Compl. at ¶¶ 79–126 (alleging the substantially the same causes of action concerning the same factual allegations) (attached as Weaver Decl. Ex. 2). The *McDonnell* complaint pleads many of the same claims concerning the same subject matter as other complaints, and thus it is clear that relating the *McDonnell* Plaintiffs’ complaint to this MDL is necessary to prevent “unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Civil L.R. 3-12(a)(2).

### CONCLUSION

Because the law and facts are substantially identical, Co-Lead Counsel respectfully ask the Court to order the *McDonnell* action related to *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, No. 3:18-cv-02843-VC.

DATE: September 21, 2018

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